

REMARKS/ARGUMENTS

Claims 33, 35 and 53 are currently pending in the above-identified application. Claim 33 has been amended to further recite that the elastic fiber is a melt spun fiber. This amendment is fully supported at page 22, line 3 of the specification.

The Applicants sincerely thank the Examiner for his careful consideration of the previous arguments and for withdrawing the finality of the previous Office Action. Claims 33, 35 and 53 are currently pending in this application. Claims 33 and 53 are rejected under 35 USC § 103(a) as being obvious in light of Ibrahim (US 3,325,876) in light of Morman (US 5,116,662) and Lodoen (US 4,798,880). The Examiner admits that Ibrahim does not explicitly teach heating the fiber until the crystals are molten, but states that Lodoen teaches that it is well known to heat-set and heat-relax spandex at temperatures of 195°C. The Examiner then states that 195°C is above the melting point of spandex, and cites US 6,623,585 to Umezawa as support. Umezawa, however states at column 2, line 27 that thermoplastic polyurethanes have a melting point in the range of from 150°C to 270°C. The melting point of a particular thermoplastic polyurethane will depend on the particular polyol, isocyanate, initiator, etc. used to make the material. Thus, based on the disclosure of Lodoen, it is impossible to say whether the 195°C recited would have been above the melting point of the particular materials used. Note also that Umezawa teaches that its preferred materials have a melting point greater than 230°C, which is well above the temperature used by Lodoen.

The applicants have also amended the claims to recite that the elastic fiber is a melt spun fiber. Umezawa speaks about the broad ranges of melting temperature for its polyurethanes and polyurethanureas, and then concludes at column 2 lines 58-61 that "Such high melting temperatures generally require even higher (and therefore impractical) processing temperatures for melt-spinning and therefore the resulting spandex is best prepared by dry-spinning from solution." Thus, reciting that the elastic fiber is a melt-spun fiber further distances the present claims from the art cited by the Examiner.

Regarding claim 53, the Examiner has stated that it would have been obvious to incorporate the inelastic material prior to the heat setting step since it has been held

that rearrangement of process steps is within routine skill of one of ordinary skill in the art. Claim 53, however, is not properly characterized as a rearrangement of a process step. Rather claim 53 recites that inelastic fiber is combined with the elastic fiber prior to step (a). This step does not appear anywhere in Claim 33, and thus this is a brand new step, and not a rearrangement.

Claim 35 is rejected under 35 USC § 103(a) as being obvious in light of Ibrahim (US 3,325,876) in light of Morman (US 5,116,662) and Lodoen (US 4,798,880) as applied to claims 33 and 53 in further view of Kahlisch (US 2,037,513). Applicant agrees that the patentability of claim 35 hangs with claim 33, from which it depends. However, as claim 33 is patentable over the art of record, as explained above, and as Kahlisch does not rectify the shortcomings in Ibrahim, Mormon, and Lodoen cited above, it is respectfully submitted that this claim is also patentable.

Accordingly, the applicants courteously request that the rejections of claims 33, 35 and 53 under 35 USC § 103(a) be reconsidered and withdrawn.

Respectfully submitted,

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